UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,711	12/02/2003	Mark Weedmark	ALC 3101	2221

7590   08/23/2007

KRAMER & AMADO, P.C.
1725 Duke Street, Suite 240
Alexandria, VA 22314

EXAMINER
MURRAY, DANIEL C

ART UNIT	PAPER NUMBER
2143	

MAIL DATE	DELIVERY MODE
08/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/724,711	WEEDMARK ET AL.
	Examiner	**Art Unit**	
	Daniel Murray	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>17MAY2007</u>.

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-8</u> is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-8</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>17MAY2007</u> is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a) ☐ All b) ☐ Some * c) ☐ None of:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____.

        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
     Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1.   This Action is in response to Applicant's amendment filed on 02DEC2003. **Claims 1-8** are

now pending in the present application. **This Action is made FINAL.**

Drawings

2.   The replacement drawing sheets received on 17MAY2007 are accepted by the Examiner.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-7 rejected under 35 U.S.C. 102(e) as being anticipated by **Karia et al. (US Patent**

Number: US 6,643,267 B1).

a) Consider **claim 1,** Karia et al. clearly show and disclose an active connection modify in a

connection oriented communication network (inherently taught by the use of ATM networks which

by definition incorporate the ability to do an active connection modify and are by nature connection

oriented. see columns 1, column 2, figure 1, figure 2), comprising the steps of: appending a trace

transit list information element (TTL IE) to a Modify Request message (figure 2, figure 3, column 2

lines 7-9)), transmitting said Modify Request message from a source node to a destination node

along said active connection (column 1 lines 27 – 30, column 2 lines 22-23 lines 29-31), and at each

node along said active connection, modifying a parameter of said active connection (inherently

taught by the use of ATM networks which by definition incorporate the reservation of resources in

conjunction with a Modify Request message) while recording in said TTL IE failure identification

data(inherently taught in column 2 lines 34-41, column 3 lines 42-43).

b) Consider **claim 2** and **as applied to claim 1 above,** generating a Modify Reject message

at a node along said connection if said node does not enable modification of said parameter

(inherently taught by the use of ATM networks which by definition generates a Modify reject

message when a node does not enable modification or when there are insufficient resources

accommodate the modification request), updating said TTL IE from said Modify Request message

with failure cause information (column 3 lines 41-44, inherently taught by use of ATM network

which by definition incorporates Modify reject message that includes the cause of the failure), and

appending said TTL IE to said Modify Reject message and returning said Modify Reject message to

said source node (Inherently taught by Karia et al. which returns failure information for failed paths

via the acknowledge message).

c) Consider **claim 3** and **as applied to claim 1 above,** wherein said failure identification

data (inherently taught in column 2 lines 34-41 "not including the failed paths" implies that failed

path can be recorded in the TTL IE, column 3 lines 42-43) includes the logical node and logical port

trace of the failed Modify Request (figure 3, figure 5, column 3 lines 16-17, column 6 lines 13-48).

d) Consider **claim 4** and **as applied to claim 1 above,** wherein said failure identification

data (inherently taught in column 2 lines 34-41 "not including the failed paths" implies that failed

path can be recorded in the TTL IE, column 3 lines 42-43) includes failure cause information

(column 3 lines 41-44).

e) Consider **claim 5** and **as applied to claim 4 above,** wherein said failure cause

information (column 3 lines 42-43) includes vendor specific information (abstract, figure 3, figure 4,

column 4 lines 3-4 lines 12-16 lines 61-66).

f) Consider **claim 6** and **as applied to claim 1 above,** wherein said parameter is the

bandwidth allocated to said connection (inherently taught by the use of ATM networks which by

definition incorporate the ability to modify traffic parameters).

g) Consider **claim 7** and **as applied to claim 1 above,** wherein said failure to modify

includes the capability of a node along said connection to support the modify of an active

connection of said parameter (inherently taught by use of ATM networks which by definition return

a Modify Reject message with failure cause information if the node enables modification of traffic

parameters).

h) Consider **claim 8,** and **as applied to claim 1 above,** further comprising: generating a

Modify Acknowledgement message at said destination node if all nodes along said connection

enable modification of said parameter (inherently taught by the use of ATM networks which use the

Modify Acknowledge sent from the destination node to the requesting node if the connection

defined by the Modify Request is available for use); transmitting said Modify Acknowledgement

message to said source node (abstract, column 2 lines 63-67, columnn3 lines 1-4, column 4 lines 24-

28, column 8 lines 12-17); and transmitting traffic from said source node to said destination node

along said connection with said modified parameter (a virtual circuit is set up across the ATM

network prior to transferring data which would include the specification of traffic parameters

necessary to transmit the traffic)(column 1 lines 24-30)(also inherently taught by the use of ATM

networks in which the requesting node transmits based on the request modified transmit traffic

parameters).

Response to Arguments

4.   Applicant's arguments filed 17MAY2007 have been fully considered but they are not

persuasive.

Applicant argues because of reliance on an inherency argument that the step of modifying a

parameter as recited in claim 1 is not disclosed by Karia et al., Applicant also argues that this

deficiency in the rejection is evident even by the Office Action's own assertion regarding what is

allegedly inherent. Specifically, "the use of *ATM* networks which by definition incorporate the

reservation of resources in conjunction with a Modify Request message" in no way describes

"modifying a parameter" as recited in claim 1.

Both the ITU-T Q.2963.1 document submitted by Applicant (ITU-T Q.2963.1 table 8-

1/Q.2963.1 notes 3 and 4, section 3.2, section 5, section 9.1.1, section 9.1.2) and Applicant's

admissions (paragraph [0002] lines 3-11, paragraph [0003], paragraph [0004] lines 1-7, paragraph

[0005] lines 16-22) show modification of parameters in an active connection ATM network.

Karia et al. incorporates connection-oriented networks such as ATM networks using TTL

(column 1 lines 14-30, column 4 lines 59-67).

Therefore the ability or modify parameters is inherently disclosed by Karia et al., specifically

"the use of ATM networks which by definition incorporate the reservation of resources in

conjunction with Modify Request message" does describe "modifying a parameter" as recited in

claim 1 (ITU-T Q.2963.1 table 8-1/Q.2963.1 notes 3 and 4, section 3.2, section 5, section 9.1.1; as

admitted by Applicant paragraph [0002] lines 3-11, paragraph [0003], paragraph [0004] lines 1-7,

paragraph [0005] lines 16-22).

5.   Please refer to the IDS references for support of each of the inherency statements made by

the Examiner where in:

a) ATM supports active connection modify in a connection oriented network (ITU-T

Q2963.1 section 1 paragraph 1 line 5 paragraph 3 paragraph 4 lines 1-2 and as admitted by

Applicant. (paragraph [0002] lines1-3, paragraph [0003]))

b) Resources are reserved in conjunction with a Modify Request message (ITU-T Q2963.1

section 9.1.1 lines 3 and 5 and as admitted by Applicant. (paragraph [0004] lines 1-7, paragraph

[0005] lines 16-22)

c) A Modify Reject message sent when modification is not supported or resources are not

available to support the modification and as admitted by Applicant. (ITU-T section 9.1.4 lines 2-5

and as admitted by Applicant. (paragraph [0005] lines 1-16))

d) A Modify Reject message includes cause of failure (ITU-T Q.2963.1 section 8.1.3 table 8-

3/Q.2963.1)

e) ATM supports the modification of traffic parameters (ITU-T Q.2963.1 section 3.2 section

91.1 section 9.1.2 section 9.1.3 and as admitted by Applicant. (paragraph [0002] lines 3-11 and

paragraph [0003]))

f) A Modify Reject message contains the cause of failure if a node enables modification of

traffic parameters (ITU-T Q.2963.1 table 8-3/Q.2963.1)

g) A Modify Acknowledge message is generated at the destination node and sent to the

requesting node when resources along the path are allocated and available for use. (ITU-T Q.2963.1

table 8-2/Q.2963.1 section 8.1.2, section 9.1.2)

Conclusion

6.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

7.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

> ➢ Sato et al. (US Patent # 5,337,307) disclose: "Method of Tracing Virtual Path Operation
>   Information and Apparatus Applied Thereto"
> ➢ Ashi et al. (US Patent # 5,634,097) disclose: " Virtual Path Connector and Virtual Path
>   Tracing Method and Apparatus"
> ➢ Kujoory et al. (US Patent # 6,021,263) disclose: "Management of ATM Virtual Circuits with
>   Resource Reservation Protocol"
> ➢ Srinivasan et al. (US Patent # US 6,304,549 B1) disclose: "Virtual Path Management in
>   Hierarchical ATM Networks"
> ➢ Gruber et al. (US Patent # 5,901,141) disclose: "Method of Tracing the Route of Virtual
>   Connections"
> ➢ Campbell, Walter Blanton (US Patent # US 6,549,533 B1) discloses: "Managing Switched
>   Virtual Circuits in a Network"
> ➢ Robinson et al. (US Patent # US 6,570,867 B1) disclose: "Routes and Paths Management"
> ➢ Dhar et al. (US Patent # US 7,042,881 B1) disclose; "Asynchronous Transfer Mode System
>   and Method to Verify a Connection"
> ➢ Santry et al. (US Patent # US 6,778,504 B2) disclose: "Dynamic Soft Permanent Virtual
>   Circuit Bulk Connection Tracing"

8.   A shortened statutory period for reply to this final action is set to expire THREE MONTHS

from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the

mailing date of this final action and the advisory action is not mailed until after the end of the

THREE-MONTH shortened statutory period, then the shortened statutory period will expire on

the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

calculated from the mailing date of the advisory action. In no event, however, will the statutory

period for reply expire later than SIX MONTHS from the mailing date of this final action.

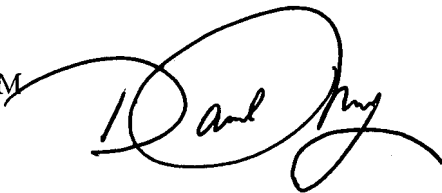Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Murray whose telephone number is (571)-270-1773. The examiner can normally be reached on Monday - Friday 0800-1700 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571)-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DCM

DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100